

Senate Bill 229

By: Senator Rogers of the 21st

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 11 of Title 4 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to animal protection, so as to change certain provisions
3 relating to inspections, impoundment of animals, and exceptions; to change certain
4 provisions relating to failure to respond, right to hearing, care, and crime exception; to
5 change certain provisions relating to filing a report regarding animal cruelty and immunity;
6 to amend Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia
7 Annotated, relating to gambling offenses, so as to change certain provisions relating to
8 dogfighting; to prohibit animal fighting or baiting and related conduct; to provide for
9 punishments; to define certain terms; to provide a short title; to provide legislative findings
10 and declarations; repeal conflicting laws; and for other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **SECTION 1.**

13 This Act shall be known and may be cited as the "Animal Fighting Act."

14 **SECTION 2.**

15 The General Assembly finds and declares that the fighting and baiting of animals in this state
16 is a cruel and horrific practice and results in the unwarranted suffering and death of hundreds
17 of animals. In addition, the animals subject to fighting and baiting are aggressive and have
18 caused numerous maulings of humans and deaths of children. The General Assembly finds
19 and declares further that the most effective, economical, humane, and ethical solution to the
20 problem of animal fighting and baiting is to punish such conduct as criminal acts.

21 **SECTION 3.**

22 Article 1 of Chapter 11 of Title 4 of the Official Code of Georgia Annotated, relating to
23 general provisions relative to animal protection, is amended by striking subsection (c) of

Code Section 4-11-9.3, relating to inspections, impoundment of animals, and exceptions, and inserting in lieu thereof the following:

"(c) Any person impounding an animal under this article is authorized to return the animal to its owner, upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order, unless such owner was, in a prior administrative or legal action in this state or any other state, found to have failed to provide humane care to an animal, committed cruelty to animals, or engaged in ~~dog~~ animal fighting or baiting in violation of the laws of this state or of the United States or any of the several states. Such consent order shall provide conditions relating to the care and treatment of such animal, including, but not limited to, the following, that:

- (1) Such animal will be given humane care and adequate and necessary veterinary services;
- (2) Such animal will not be subjected to cruelty; and
- (3) The owner will comply with this article."

SECTION 4.

Said article is further amended by striking subparagraph (b)(6)(B) of Code Section 4-11-9.5, relating to failure to respond, right to hearing, care, and crime exception, and inserting in lieu thereof the following:

"(B) Unless, in a prior administrative or legal action in this state or any other state, the owner has been found to have failed to provide humane care to an animal, committed cruelty to animals, or engaged in ~~dog~~ animal fighting or baiting in violation of the laws of this state or of the United States or any of the several states, recommend conditions under which the animal may, upon payment by the owner of all costs of impoundment and care, be returned to the owner. Such conditions shall be reduced to writing and served upon the owner and the government agency having custody of the animal. Such conditions may include, but are not limited to, the following, that:

- (i) Such animal will be given humane care and adequate and necessary veterinary services;
- (ii) Such animal will not be subjected to mistreatment; and
- (iii) The owner will comply with this article."

SECTION 5.

Said article is further amended by striking subsection (a) of Code Section 4-11-17, relating to filing a report regarding animal cruelty and immunity, and inserting in lieu thereof the following:

"(a) Notwithstanding Code Section 24-9-29 or any other provision of law to the contrary, any licensed ~~accredited~~ veterinarian or certified veterinary technician having reasonable cause to believe that an animal has been subjected to animal cruelty in violation of Code Section 16-12-4 or ~~dog~~ animal fighting or baiting in violation of Code Section 16-12-37 may make or cause to be made a report of such violation to the Commissioner, his or her designee, an animal control officer, a law enforcement agency, or a prosecuting attorney and may appear and testify in any judicial or administrative proceeding concerning the care of an animal."

SECTION 6.

Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling offenses, is amended by striking Code Section 16-12-37, relating to dogfighting, and inserting in lieu thereof the following:

"16-12-37.

~~(a) A person commits the offense of dogfighting when he causes or allows a dog to fight another dog for sport or gaming purposes or maintains or operates any event at which dogs are allowed or encouraged to fight one another.~~

~~(b) A person convicted of the offense of dogfighting shall be punished by a mandatory fine of \$5,000.00 or by a mandatory fine of \$5,000.00 and imprisonment for not less than one year nor more than five years.~~

(a) As used in this Code section, the term:

(1) 'Animal' means domestic species or wild animal as such terms are defined in Code Section 27-1-2 but shall not include any wildlife or feral hog as such terms are defined in Code Section 27-1-2.

(2) 'Baiting' means:

(A) Provoking, harassing, or enticing an animal with another animal for the purpose of training an animal for or causing an animal to engage in fighting as defined in this Code Section; or

(B) Using wildlife in violation of Title 27 for the purpose of fighting or encouraging animal fighting; or

(C) Using live animals in the training of greyhounds.

(3) 'Device' means any item intended to enhance an animal's fighting ability, including but not limited to implements, veterinary supplies, and chemical substances.

(4) 'Fighting' means any intentional attack causing physical contact by an animal against another animal.

1 (5) 'Person' means any natural person or any firm, partnership, association, or
2 corporation.

3 (6) 'Spectator' means any person, other than a minor child under the age of 15, who is
4 present at any structure, facility, or location with knowledge that fighting or baiting of
5 any animal is taking place or is about to take place.

6 (b) Any person who:

7 (1) Intentionally causes any fighting or baiting of any animal;

8 (2) Owns, possesses, harbors, keeps, or has custody or control of an animal for the
9 purpose of fighting or baiting;

10 (3) Trains, purchases, sells, transports, transfers, breeds, or equips an animal for the
11 purpose of fighting or baiting;

12 (4) Knowingly owns, possesses, solicits, acquires, or sells any device to be used for the
13 purpose of committing any violation of paragraph (1), (2), or (3) of this subsection;

14 (5) Purchases, rents, leases, or otherwise acquires or obtains the use of any structure,
15 facility, property, or location to be used for the purpose of committing any violation of
16 paragraph (1), (2), or (3) of this subsection;

17 (6) Knowingly allows, permits, or makes available any structure, facility, property, or
18 location to be used for the purpose of committing any violation of paragraph (1), (2), or
19 (3) of this subsection;

20 (7) Bets, wagers, or encourages another to bet or wager anything of value on the fighting
21 or baiting of any animal;

22 (8) Conducts, sponsors, organizes, stages, referees, charges an admission fee for or
23 serves as the stakeholder of anything of value bet or wagered on any animal fighting or
24 baiting;

25 (9) Knowingly uses any means of communication for the purpose of promoting or
26 advertising any violation of paragraph (1), (2), or (3) of this subsection

27 shall be guilty of a felony; and upon a first conviction thereof such person shall be punished
28 by imprisonment for no less than one year nor more than five years, a fine of not less than
29 \$5,000.00, or both such fine and imprisonment; and upon a second or subsequent
30 conviction thereof such person shall be punished by imprisonment for no less than one year
31 nor more than ten years, a fine of not less than \$15,000.00, or both such fine or
32 imprisonment. Each act or omission in violation of this subsection shall constitute a
33 separate offense. The court, as part of the sentence, may prohibit the offender from
34 owning, possessing, or having on the offender's premises any animal during the term of
35 such sentence.

36 (c) Any person who:

1 (1) Is a spectator at any fighting or baiting activity; or
2 (2) Knowingly brings or accompanies a minor child to any fighting or baiting activity
3 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by
4 imprisonment for not more than one year, a fine not to exceed \$ 1,000.00, or both such fine
5 and imprisonment. Each act or omission in violation of this subsection shall constitute a
6 separate offense. The court, as part of the sentence, may prohibit the offender from
7 owning, possessing, or having on the offender's premises any animal during the term of
8 such sentence.
9 (d) Any animal subject to fighting or baiting may be impounded pursuant to the provisions
10 of Code Sections 4-11-9.2 through 4-11-9.6.
11 (e) This Code section shall not prohibit, impede, or otherwise interfere with recognized
12 animal husbandry and training techniques or practices not otherwise specifically prohibited
13 by law and shall not apply to any person:
14 (1) Using, breeding, training, or equipping any animal to pursue, take, hunt, or recover
15 wildlife or free-ranging feral hogs or participating in hunting or fishing in accordance
16 with provisions of Title 27 and rules and regulations promulgated pursuant thereto as
17 such rules and regulations existed on the date specified in Code Section 27-1-39;
18 (2) Using, breeding, training, or equipping animals to work livestock for agricultural
19 purposes in accordance with the rules and regulations of the Commissioner of Agriculture
20 as such rules and regulations existed on January 1, 2006;
21 (3) Using, breeding, training, or equipping canines for law enforcement purposes;
22 (4) Using, breeding, training, or equipping animals as companion animals;
23 (5) Feeding live prey to predatory animals when such predatory animals normally
24 consume live prey; or
25 (6) Using, breeding, or equipping any animal to control damage from nuisance or pest
26 species in and around structures or agricultural operations."

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.